

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MATTHAIS MILLER,

Plaintiff,

v.

MULE CREEK STATE PRISON, et al.,

Defendants.

No. 2:22-cv-0599 DB P

ORDER AND FINDINGS AND
RECOMMENDATIONS


Plaintiff, a state prisoner, has filed a civil rights action under 42 U.S.C. § 1983. In an order filed April 15, 2022, this court found plaintiff failed to exhaust his administrative remedies before filing this action. Plaintiff was given thirty days to file either (1) a statement demonstrating that he meets an exception to the exhaustion requirement; or (2) a notice that he is dismissing this case. Thirty days have passed and plaintiff has failed to file either document or otherwise respond to the court's April 15 order. This court will therefore recommend this action be dismissed for plaintiff's failure to prosecute and failure to comply with court orders. See E.D. Cal. R. 110; Fed. R. Civ. P. 41.

Accordingly, the Clerk of the Court is HEREBY ORDERED to randomly assign a district judge to this case and

IT IS RECOMMENDED that this case be dismissed without prejudice for plaintiff's failure to prosecute and failure to comply with court orders.

1 These findings and recommendations will be submitted to the United States District Judge
2 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within thirty days after
3 being served with these findings and recommendations, either party may file written objections
4 with the court. The document should be captioned “Objections to Magistrate Judge's Findings
5 and Recommendations.” The parties are advised that failure to file objections within the specified
6 time may result in waiver of the right to appeal the district court’s order. Martinez v. Ylst, 951
7 F.2d 1153 (9th Cir. 1991).

8 Dated: June 14, 2022

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12 DEBORAH BARNES
13 UNITED STATES MAGISTRATE JUDGE
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